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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,819	09/24/2003	Gerald Fredrickson	12013/49401	7313

26646 7590 12/29/2004

KENYON & KENYON  
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EXAMINER
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PARKER, FREDERICK JOHN

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/670,819

Applicant(s)

FREDRICKSON, GERALD

Examiner

Frederick J. Parker

Art Unit

1762

--The MAILING DATE of this communication appears on the cover sheet with the corresponding address--

THE REPLY FILED 16 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): rejection of claim 37 under 35 USC 112.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

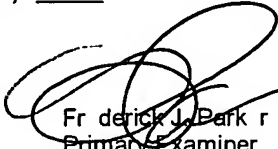
Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-13.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☒ Other: See Continuation Sheet

  
Frederick J. Parker  
Primary Examiner  
Art Unit: 1762

Continuation of 10. Other: The Examiner has considered Applicants reply After Final of 12-16-04. It proposes that Claims 14-37 be cancelled, which will be entered. Applicants argue motivation issues related to the combination of Schwartz in view of Park. Specifically Applicants argue there is no suggestion in the prior art to modify Schwartz in view of Park to arrive at the instant claims; that Park, while disclosing coating stents, does not disclose coating stents using air suspension; that the Examiner used improper hindsight reasoning; that the coating improvements are unsupported; that claim 3 uses fluidizing gas flow to transport coating at the ultrasonic nozzle; and that Schwartz teaches away from a "high pressure" jet to transport coating material.

Schwartz utilizes low velocity air streams (as recognized by Applicants in response) for coating medical components, such as stents, in a low velocity atomized gas-coating flow so as not to disrupt the air flow and the suspended medical devices. Col 7 3-15 recognizes the importance of controlled release of coating materials on the medical devices. Park teaches coating medical devices, e.g. stents, by the atomization of coating liquid using an atomization nozzle and vibration thereof, such atomization being a low-energy/ velocity flow (as required by Schwartz) [0050-0052] which maintains bioactivity of substances applied. The recitation further points out that ultrasonic atomization has been conventionally employed by biomedical areas FOR SURFACE COATING. The reference further teaches the use of dual atomizers so that colliding sprays of microdroplets of microencapsulated particles, specifically including those with controlled release properties [0028] which is also a factor cited by Schwartz (col. 7, top). Thus, the skilled artisan would have been motivated to combine the references both to maintain low velocity coating streams to prevent disruption during the coating process and form coated (controlled release) medical particles on the medical devices/stents. The suggestion and motivation is clear, and Applicants' arguments directed to lack of motivation are not persuasive. The Examiner's combination is not based on hindsight as alleged in arguments, but rather what the practitioner of ordinary skill would have understood from the references, keeping in mind Park [0050]. Park is being combined with Schwartz which teaches suspension, Park providing the benefits of an atomizing nozzle as previously discussed. Had Park also taught suspension, the Examiner would have, at quick glance, been able to make an anticipation rejection with Park alone. Any such atomization system would have directed a coating "onto" the ultrasonic nozzle to create the effects of Park [0045]. If Applicants limitation means otherwise, it is not apparent from the claim language. The nozzles must also project towards the substrate for the coating to be applied; to do otherwise would simply defeat the express intention of both references, namely coating medical articles. Applicants' argument on top of page 6 of response is confusing, implying Applicants use a high pressure jet; neither claim 3 nor any other active claim requires a flow at a known or defined high pressure regime. Hence this argument is both confusing and not commensurate with the scope of the claims.

Applicants arguments are not persuasive and the rejection of claims 1-13 are maintained.